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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,941	11/24/2003	Donna K. Hodges	BS 030006	5264

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EXAMINER	
TRAN, NGHI V	
ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
02/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/720,941	Applicant(s) HODGES ET AL.	
	Examiner NGHI V. TRAN	Art Unit 2151	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *None*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: *None*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed January 25, 2008 have been fully considered but they are not persuasive because of the following: Feig teaches a method of providing communications services [see abstract], comprising the steps of: receiving data [i.e. multimedia data] at a computer, the data received as packets of data packetized according to a packet protocol [i.e. UDP/TCP protocol] [figs.3&5]; segmenting the packets of data into segments [fig.9] according to a segmentation profile stored in memory [i.e. database 60] [paragraphs 0058-0075]; dispersing at least one of the segments via a network for a subsequent processing service [paragraphs 0010-0022]. However, Feig does not explicitly show receiving results of the subsequent processing service; aggregating the results of the subsequent processing service; and communicating the aggregated results to a client communications device, wherein the aggregated results are formatted according to the segmentation profile. In a method of providing communications services, Hui discloses or suggests receiving results of the subsequent processing service; aggregating the results of the subsequent processing service; and communicating the aggregated results to a client communications device, wherein the aggregated results are formatted according to the segmentation profile [figs.1-5 and paragraphs 0020-0088]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui by communicating the aggregated results to a client communication device because this feature could increase and/or decrease the segment size according to the threshold [Hui, paragraph 0048]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to adjust at least one encoding parameter which is then used to encode the additional video information [Hui, see abstract]. Further, Feig does not explicitly show recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented. In a related art, Chayes discloses recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented [= recursively segmented into cluster of desirable size, paragraphs 0066-0101]. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented because this feature facilitates improved searching and organization of newsgroups [Chayes, paragraph 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].

In response to applicant's arguments that the references are not sufficient to support a prima facie case, the examiner respectfully disagrees. First, Applicant obviously attacks references individually without taking into consideration based on the teaching of combinations of references as show in the above. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642F. 2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F. 2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Second, in response to applicant's argument that the examiner's prima facie case requires impermissible changes to either Feig's or Chayes' priciples of operation, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Third, in response to applicant's argument that any proposed combination of Feig with Chayes cannnot support a prima facie case for obviousness, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui by communicating the aggregated results to a client communication device because this feature could increase and/or decrease the segment size according to the threshold [Hui, paragraph 0048]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to adjust at least one encoding parameter which is then used to encode the additional video information [Hui, see abstract]. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Feig in view of Hui, and further in view of Chayes by recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented because this feature facilitates improved searching and organization of newsgroups [Chayes, paragraph 0007]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to optimize utilization of processing bandwidth [Chayes, paragraph 0015].